

JaVonne M. Phillips, Esq., SBN 187474
Gregory J. Babcock, Esq., SBN 260437
McCarthy & Holthus, LLP
1770 Fourth Avenue
San Diego, CA 92101
Phone (619) 685-4800
Fax (619) 685-4810

Attorney for: Secured Creditor,
Deutsche Bank National Trust Company, as Trustee of the IndyMac INDX Mortgage Trust
2006-AR4, Mortgage Pass-Through Certificates, Series 2006-AR4 under the Pooling and
Servicing Agreement dated March 1, 2006, its assignees and/or successors and the servicing
agent OneWest Bank FSB

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SANTA ROSA DIVISION

In re:) Case No. 09-10848 J
)
Francisco Ortiz,) Chapter 13
)
)
)
)
Debtor.) **MOTION FOR RELIEF FROM**
) **AUTOMATIC STAY**
)
)
)
) Date: 11/12/09
) Time: 9:00AM
) Place: 99 South E Street
) Santa Rosa, CA
)
)
)
)
)
)

Deutsche Bank National Trust Company, as Trustee of the IndyMac INDX Mortgage
Trust 2006-AR4, Mortgage Pass-Through Certificates, Series 2006-AR4 under the Pooling and
Servicing Agreement dated March 1, 2006, its assignees and/or successors in interest ("Secured

1 Creditor” or “Movant” herein), moves this Court for an Order Terminating the Automatic Stay of
2 11 U.S.C. § 362 as to moving party (and the Trustee under the Deed of Trust securing moving
3 party’s claim) so that moving party and its Trustee may commence and continue all acts
4 necessary to foreclose under the Deed of Trust secured by the Debtor's property, commonly
5 known as 3031 Redemeyer Road, Ukiah, CA 95482, (“Property” herein).

6 As stated in the attached Declaration, the Debtor has failed to make 7 post-petition
7 payments (4/09 through 10/09).

8 Based on the foregoing, Secured Creditor alleges that Secured Creditor is not adequately
9 protected. Secured Creditor is not receiving regular monthly payments, and is unfairly delayed
10 from proceeding with the foreclosure of the subject Property. Accordingly, relief from the
11 automatic stay should be granted to Secured Creditor pursuant to 11 U.S.C. § 362(d)(1) and (2).

12 WHEREFORE, Secured Creditor prays for judgment as follows:

- 13 1. For an Order granting relief from the automatic stay, permitting Secured Creditor to
14 proceed with the foreclosure under Secured Creditor’s Deed of Trust, and to sell the
15 subject Property at a trustee’s sale under the terms of the Deed of Trust to proceed
16 with any and all post foreclosure sale remedies, including the unlawful detainer action
17 or any other action necessary to obtain possession of the Property.
- 18 2. For an Order that the ten day stay described by Bankruptcy Rule 4001(a)(3) be
19 waived.
- 20 3. For an Order modifying the automatic stay to protect Secured Creditor’s interest, as
21 the Court deems proper.
- 22 4. For attorneys’ fees and costs incurred herein.
- 23 5. For such other relief as the Court deems proper.

24 Dated: October 27, 2009

McCarthy & Holthus, LLP

25
26 By: /s/ Gregory J. Babcock
Gregory J. Babcock, Esq.
27 Attorneys for Secured Creditor
28
29